IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

WP(C).No. 17772 of 2007(N)

PETITIONER:

G.P.AJITH, S/O. LATE G.P.BALAN,
AGED 39 YEARS, 'SABALA', P.O.KAVUMBHAGOM,
TELLICHERY, KANNUR DISTRICT.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENT:

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1. THALASSERY MUNICIPALITY, REPRESENTED BY
ITS SECRETARY, THALASSERY, KANNUR DISTRICT.

2. THE TOWN PLANNING OFFICER,
THALASSERY MUNICIPALITY, THALASSERY,
KANNUR DISTRICT.

3. STATE OF KERALA, REPRESENTED BY
SECRETARY, LOCAL SELF GOVERNMENT,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

R1-R2 BY ADV. SRI.I.V.PRAMOD
R3 BY GOVT. PLEADER MR.K.J.MOHAMMED ANZAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/09/2007 ALONG WITH W.P.C.NO.18090 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C) Nos.17772 & 18090 of 2007

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Dated: 11th September, 2007

JUDGMENT

Heard Mr.C.P.Peethambaran, counsel for the petitioners and Mr.I.V.Pramod, counsel for the Thalassery Municipality.

2. My attention was drawn by the counsel for the petitioners to the interim order dated 6.10.2006 in W.P.C.No.22259 of 2006. The grievance of the petitioners is that the applications for permits for construction of residential buildings on their properties in Thiruvangadu Village within the area of the Thalassery Municipality were rejected by the Municipality on the ground that the area upon which the houses are proposed to be constructed comes under the industrial zone as per a notified D.T.P.Scheme. It is contended that the scheme which was notified in early 1950s has not been implemented so far and on account of the long pendency of the scheme, the scheme has become oppressive from the point of view of the owner-citizens. My attention was also drawn to the various judgments of this court such as **G.C.D.A. v. Dr.M.Chandrasekhar** (1994(1) KLT 778), **Hassan v. Corporation of Calicut** (1996(2) KLT 839), **Beerankutty v. Municipal Commr., Manjery** (1984 KLT Sh.

Notes case No. 77, page 46). I find force in the above submissions. Counsel for the petitioners further submitted that the petitioners will be ready to submit an undertaking to the effect that in the event of any portion of the petitioners plot being required for any industrial development scheme, they will be prepared to demolish and remove the constructions put up by them without raising any claim whatsoever for compensation provided a request in that regard comes from the Municipality within one year of the Municipality granting permits. Under these circumstances, the Writ Petitions will stand disposed of quashing Ext.P2 in both the cases and directing the Municipality to pass fresh orders on the applications submitted by the petitioners for building permits and on the original of the plans provided the petitioners file affidavits in which it will be stated that in the event of any portion of the building being required by the Municipality for industrial development within a period of one year of grant of permits, no claims will be made by the petitioners for compensation. Orders should be passed without being influenced by the currency of the D.T.P.Scheme at the earliest and at any rate within one month of the petitioners producing copy of this judgment.

srd **PIUS C.KURIAKOSE, JUDGE**

srd **PIUS C.KURIAKOSE, JUDGE**